

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

CLEVELAND HAASE, :
Petitioner :
 : PRISONER
v. : Case No. 3:03cv2075(WWE)
 :
WARDEN MICHAEL CARTER, :
Respondent :

MEMORANDUM OF DECISION

The petitioner, Cleveland Haase ("Haase"), filed this habeas corpus action pursuant to 28 U.S.C. § 2254. He argues that he was afforded ineffective assistance of counsel on appeal from the denial of a prior federal habeas petition. For the reasons that follow, this petition will be transferred to the United States Court of Appeals for the Second Circuit on the ground that the petition is second or successive within the meaning of 28 U.S.C. § 2244(b)(3)(A).

I. Background

In 1996, Haase was convicted of murder and tampering with physical evidence and sentenced to a forty-year term of imprisonment. Haase's conviction was affirmed on direct appeal. See State v. Haase, 243 Conn. 324, 702 A.2d 1187 (1997), cert. denied, 523 U.S. 1111 (1998). In 1998, Haase

filed a federal habeas petition, Haase v. Connecticut, Case No. 3:98cv959 (CFD). The district court's denial of the petition was affirmed on appeal. See Haase v. Connecticut, 6 Fed. Appx. 79, 2001 WL 392073 (Apr. 18, 2001).

II. Discussion

In 1996, 28 U.S.C. § 2244 was amended to provide, in relevant part, that a petitioner must seek permission from the court of appeals before filing a second or successive habeas petition in the district court. See 28 U.S.C. § 2244(b)(3)(A). The section also was amended to provide that a claim presented in a second or successive habeas corpus petition that was not presented in a prior petition shall be dismissed unless certain requirements are met. See 28 U.S.C. § 2244(b)(2). These amendments have transferred to the court of appeals the screening function formerly performed by the district courts under the doctrine of abuse of the writ. See Felker v. Turpin, 518 U.S. 651, 664 (1996).

Because Haase's first federal habeas petition was denied on the merits, this petition is a second or successive petition within the meaning of section 2244. Haase neither alleges in his petition nor attaches evidence that he has obtained permission from the Second Circuit to file this petition. Under this circumstance, the Second Circuit has

held that the district court "should transfer the petition . . . to this Court in the interest of justice pursuant to [28 U.S.C.] § 1631." Liraino v. United States, 95 F.3d 119, 122 (2d Cir. 1996).

III. Conclusion

In accordance with the requirements of 28 U.S.C. §2244(b)(3)(A) and in the interest of justice pursuant to 28 U.S.C. § 1631, the Clerk is directed to transfer this case to the United States Court of Appeals for the Second Circuit to enable that court to determine whether the claims raised in this petition should be considered by the district court.

SO ORDERED this 27th day of February, 2004, at Bridgeport, Connecticut.

Judge Warren W. Eginton
Senior United States District